

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BOARHEAD FARM AGREEMENT GROUP,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO. 02-3830
	:	
ADVANCED ENVIRONMENTAL TECHNOLOGY CORPORATION,	:	
ET. AL.	:	
	:	
Defendants.	:	

**MOTION FOR STANDING ORDER REGARDING
DISMISSAL OF SETTLING DEFENDANTS**

Plaintiff Boarhead Farm Agreement Group (“Plaintiff”), by its undersigned counsel, hereby moves for the entry of an Order to establish a procedure for entry of orders barring any future claims against any Defendant that settles in good faith with Plaintiff. In support of this motion, Plaintiff avers as follows:

1. On June 18, 2002, Plaintiff filed a Complaint¹ against Defendants alleging that they were liable under the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9613 (“CERCLA”) and the Pennsylvania Hazardous Sites Cleanup Act, 35 Pa. Cons. Stat. § 6020.101 *et seq.* (“HSCA”), and seeking response costs, contribution, and declaratory relief in connection with the Boarhead Farms Superfund Site (the “Site”).

2. On January 31, 2003, this Court entered a Case Management Order (“CMO 1”) that divided this action into two initial phases for purposes of case management.

¹ Three Amended Complaints were filed after this date as follows: Amended Complaint, filed August 26, 2002; Second Amended Complaint filed February 21, 2003; and Third Amended Complaint filed September 8, 2003.

3. Phase I of the case consisted of information exchanges concerning Site nexus and discovery as to the liability of each party, and ended on September 19, 2003 pursuant to this Court's Second Case Management Order dated July 27, 2003.

4. Phase II of this case commenced September 20, 2003.

5. CMO 1 provides that Phase II of the case shall take place over a period of 60 days following the completion of Phase I and shall entail meetings between the parties to discuss the nature and basis of their claims and defenses and to explore possibilities for resolution of the case.

6. The Court's Order of July 27, 2003, extended Phase II until November 21, 2003.

7. During Phase II, Plaintiff has reached settlement with one Defendant and has made offers of settlement to several other Defendants.

8. In the settlement agreement executed thus far, and in future settlement agreements, the rights of the settlers to contribution from other potentially responsible parties are and will be assigned to Plaintiff.

9. This Court has now entered a Third Case Management Order which extends Phase II to include a period of mediated settlement discussions among Plaintiff and Defendants.

10. Plaintiff anticipates that it will settle with many more Defendants during Phase II.

11. Applicable law entitles Defendants who settle in good faith with Plaintiff to contribution protection.

12. The proposed Order establishes a procedure that will be sufficient to grant settling Defendants protection against future response costs claims.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter Plaintiff's proposed Order.

Dated: December 8, 2003

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